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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,871	07/09/2001	Gerard G. Cervello	US 000162	5956

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

TRAN, THIEN D

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/901,871	Applicant(s) CERVELLO ET AL.	
	Examiner Thien D. Tran	Art Unit 2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/30/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-22 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 23-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6, 23-27 are rejected under 35 U.S.C. 102(e) as being participated by Wellig et al (U.S Patent No. 6,580,704 B1).

Regarding claims 1, 23, Wellig discloses a method for dynamically selecting a communication channel between an access point (AP) and a plurality of stations (STAs) located within the coverage area of a basic service set, hereinafter BSS, in a wireless local area network (WLAN), figure 10, the method comprising the steps of:

(a) determining whether a new channel setup to be used by said plurality of stations MT1-MTn is needed, figure 6;

(b) issuing slots for MT1, MT2 (requesting), by said AP, for a channel signal quality measure to at least one of said plurality of stations, col.11 lines 10-30;

(c) reporting a channel signal quality report to said AP based on a received signal RSS value based on deep fade changes, col.4 lines 1-5, or power levels, attenuation , col.9 lines 50-60, (strength indication, hereinafter RSSI, and a packet error rate

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hereinafter PER) of all channels measured by said plurality of stations, col.11 lines 20-30;

(d) determining a plurality of time slots (candidate channels) for use in communication between said AP and said plurality of stations, col.9 lines 60-63; and

(e) selecting one of said candidate channels for setting up a connection based on said channel quality report for use in communication between said AP and said plurality of stations, figure 6.

Regarding claims 2, 24 Wellig discloses the transmitting the granted slots for communication (selected channel information) to said plurality of stations by said AP, col.11 lines 50-65.

Regarding claims 3, 25 Wellig discloses establishing communication to said selected channel between said AP and said plurality of stations, col.12 lines 50-55.

Regarding claims 4, 26 Wellig discloses that channel signal quality report further includes an interference signal level caused by another communication device, said interference signal level is based on the absence of any 802.11 frame reception, col.1 lines 25-35.

Regarding claims 5, 27 Wellig discloses that RSSI and said PER is used to determine said channel signal quality and a relative distance between the STA requested for said channel signal quality measure and a plurality of adjacent stations from said adjacent BSS, col.4 lines 1-5.

Regarding claim 6, Wellig discloses that it is determined that said new channel is needed in step (a) if one of the following conditions occurs: (1) said BSS is formed by

said AP, col.4 lines 30-40; (2) said AP or said STA experiences a bad channel condition; (3) said BSS overlaps with an adjacent BSS; and, (4) no association of said STA by said AP occurs longer than a predetermined time period, figure 1.

Allowable Subject Matter

3. Claims 7-22 are allowed.

Response to Arguments

4. Applicant's arguments filed 03/30/2005 have been fully considered but they are not persuasive.

Applicant argues that Welling fails to disclose that the AP selects a channel based on received signal strength (RSSM and a packet error rate (PER). However, Examiner respectfully disagrees with the argument because Welling discloses a channel signal quality report to said AP based on a received signal RSS value based on deep fade changes, col.4 lines 1-5, or power levels, attenuation, col.9 lines 50-60, (packet error rate).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thien Tran whose telephone number is (571) 272-3156. The examiner can normally be reached on Monday-Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (571) 272-3155. Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

Patent Examiner

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Thien Tran

DUCHO
PRIMARY EXAMINER

Lucho

6-10-05